

Court of Appeals, State of Michigan

ORDER

People of MI v Brandon Clees

Docket No. 290752

LC No. 2008-005221-FH

Elizabeth L. Gleicher
Presiding Judge

Kathleen Jansen

Henry William Saad
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting the application for leave to appeal, the Court orders pursuant to MCR 7.205(D)(2) that the February 13, 2009 order of the Macomb Circuit Court is REVERSED only to the extent it denied defendant's motion to suppress the statements he made to police before police informed him of his rights pursuant to *Miranda v Arizona*, 384 US 436; 86 NW2d 1602; 16 L Ed 2d 694 (1966). When the police officer approached defendant carrying a taser pointed down but toward defendant, the circumstances were such as to create in defendant a reasonable belief that he was not free to leave. *People v Coomer*, 245 Mich App 206, 219; 627 NW2d 612 (2001). Thus, the officer's questioning of defendant constituted a custodial interrogation and defendant's statements made during that interrogation before being informed of and waiving his constitutional rights are inadmissible and must be suppressed. *People v Harris*, 261 Mich App 44, 55; 680 NW2d 17 (2004).

The application for leave to appeal is otherwise DENIED for failure to persuade the Court of the need for immediate appellate review.

This Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 15 2009

Date

Sandra Schultz Mengel
Chief Clerk